

Message Text

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ACTION DLOS-06

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 ACDA-07 AGR-05

AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00

DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01

TRSE-00 H-02 INR-07 INT-05 JUSE-00 L-03 NSAE-00

NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02

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TO SECSTATE WASHDC PRIORITY 8752

INFO AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

AMEMBASSY TOKYO

C O N F I D E N T I A L USUN 3324

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LAW OF THE SEA: COMMITTEE I: GROUP OF 5 REACTION TO U.S.
DRAFT ARTICLE 27 (COUNCIL)

SUMMARY: GROUP OF 5 HAS REACTED CAUTIOUSLY BUT GENERALLY
POSITIVELY TO DRAFT US ARTICLE 27 ON THE COUNCIL. WE HAVE ASKED FOR
FORMAL REACTION BY EARLY NEXT WEEK. END SUMMARY.

1. US DEL CIRCULATED TO GROUP OF 5 AND TO FRG TEXT OF
ARTICLE 27 ON AUGUST 16. ON AFTERNOON AUGUST 17 GROUP OF
5 MET TO DISCUSS INFORMALLY THE ARTICLE. US COMMITTEE
I REP RATINER OPENED BY GIVING DETAILED EXPLANATION OF
US ARTICLE. RATINER EMPHASIZED THAT: A) BASIC IDEA
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OF US ARTICLE IN COMPOSITION FORMULA IS TO ENSURE

REPRESENTATION ON THE SEABED COUNCIL OF ALL MEMBERS OF GROUP OF 5, TO ENSURE THAT MAJOR PRODUCERS AND CONSUMERS ARE REPRESENTED, THAT BLOCK OF SEATS FOR LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES ARE GUARANTEED, AND THAT THERE IS SOME RECOGNITION OF EQUITABLE GEOGRAPHIC DISTRIBUTION OF SEATS ON AT LEAST PART OF THE COUNCIL;

B) ALTHOUGH US ARTICLE STATES THAT 60 PERCENT OF PRODUCTION/CONSUMPTION MUST BE REPRESENTED ON COUNCIL, IN FACT WHEN FIRST THREE CHAMBERS ARE FILLED, 75 TO 80 PERCENT PRODUCTION/CONSUMPTION IS LIKELY TO BE REPRESENTED. IF OTHER INDUSTRIALIZED COUNTRIES IMPORTANT IN CI'S WORK, SUCH AS NORWAY, FEEL VERY STRONGLY ABOUT BEING GUARANTEED SEATS ON THE COUNCIL, THE REQUIREMENT COULD BE CHANGED TO 90 - 95 PERCENT AND THE COUNCIL ENLARGED TO 48 SEATS; C)

PARA 1 OF ARTICLE REQUIRES THAT ELECTIONS TO THE COUNCIL BE IN ORDER LISTED. HOWEVER, COUNTRIES WHO ARE ELIGIBLE FOR MORE THAN ONE CHAMBER CAN SELECT CHAMBER IN WHICH THEY WISH TO BE SEATED. THIS, FOR EXAMPLE, WOULD ALLOW INDUSTRIALIZED STATES WHO ARE ELIGIBLE FOR CATEGORY A, B AND C TO SELECT CATEGORY B IN ORDER TO LIMIT THE REPRESENTATION OF LDC LAND-BASED PRODUCERS. CHAMBERS ARE ONLY FOR SELECTION TO THE COUNCIL AND DO NOT HAVE ANY RELATIONSHIP TO VOTING; D) PARAGRAPHS 7 AND 8 ALLOW PARTICIPATION BY PROXY IN THE COUNCIL OF STATES WHO ARE NOT ELECTED. THIS HAS A COSMETIC EFFECT OF MAKING COUNCIL APPEAR DEMOCRATIC BUT ITS PRACTICAL IMPACT ON THE COUNCIL WILL BE SMALL SINCE ONLY A SMALL PERCENT OF PRODUCTION/ CONSUMPTION WILL NOT BE REPRESENTED ON THE COUNCIL IN ANY CASE. THE DISTINCTION BETWEEN PROXY ASSIGNMENT IN PARAS 7 AND 8 IS THAT PARA 7 PROXIES ARE ASSIGNED BEFORE ELECTION FOR PURPOSE OF QUALIFYING STATES AS TOP RANKING PRODUCERS OR CONSUMERS, WHILE PARA 8 PROXIES ARE ASSIGNED TO MEMBERS OF THE COUNCIL AFTER THE ELECTION FOR PURPOSE OF VOTING; E) CONCERN- ING THE REQUIREMENT IN PARA 10 THAT THE APPROVAL OF 3/4 OF ALL MEMBERS OF THE COUNCIL IN ADDITION TO A MAJORITY OF CONSUMERS AND PRODUCERS BE REQUIRED FOR AFFIRMATIVE ACTION, THE US DELEGATION HAS RESERVATIONS. CONFIDENTIAL

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INITIAL US INCLINATION WAS THAT A SIMPLE MAJORITY OF ALL MEMBERS OF THE COUNCIL BE REQUIRED INSTEAD OF 3/4 IN ORDER TO FACILITATE AFFIRMATIVE COUNCIL ACTION, BUT WE WERE CONCERNED THAT WE WOULD HAVE NO FALLBACK IF WE WENT INITIALLY TO THIS FIGURE. WE COULD AGREE ON A FINAL ARTICLE WHICH CONTAINED A SIMPLE MAJORITY REQUIREMENT OF ALL COUNCIL MEMBERS, PROVIDED THE REQUIREMENT THAT MORE

THAN 1/2 OF CONSUMERS AND PRODUCERS WERE RETAINED. IF, HOWEVER, WEIGHTED VOTING IN PARA 10 DISAPPEARED, WE WOULD NEED THE 3/4 REQUIREMENT TO PROTECT OUR INTERESTS. RATINER EMPHASIZED, HOWEVER, THAT THE PARA 11 REQUIREMENT FOR 3/4 MAJORITY OF ALL COUNCIL MEMBERS ALONG WITH 3/4 OF PRODUCTION/CONSUMPTION WAS A FIRM POSITION ON WHICH US HAD NO FLEXIBILITY AND FROM WHICH WE HAD NO FALLBACK. HE ASKED FOR G-5 TO REFLECT ON ISSUE AND OFFER VIEWS ON HOW WE SHOULD HANDLE THE PROBLEM IN PARA 10.

2. THE MEMBERS OF GROUP ASKED NUMEROUS QUESTIONS ON MEANING OF VARIOUS PROVISIONS AND POSSIBLE COMPOSITION AND FUNCTIONING OF THE COUNCIL. AFTER THIS WE ASKED FOR GENERAL REACTIONS. FRANCE (MARTIN-SANE) SAID THAT IT FOUND THE PROPOSAL INTERESTING BUT IT WAS EXTREMELY COMPLEX AND REQUIRED FURTHER STUDY. FRANCE SAID THAT THIS COMPLEXITY WAS PERHAPS THE MAJOR PROBLEM WITH THE ARTICLE AND OTHER DELEGATIONS MIGHT REACT STRONGLY AGAINST IT FOR THIS REASON ALONE. THE UK (WOOD) SAID IT ALSO THOUGHT THE PROPOSAL WAS INTERESTING BUT, AS WITH OUR PREVIOUS ARTICLE, THEY HAD DOUBTS ABOUT ITS NEGOTIABILITY. JAPAN (IGUCHI) SAID IT CONSIDERED THE ARTICLE GENERALLY A WELL CONCEIVED SCHEME THAT PROTECTED G-5 POSITIONS. IT FELT THAT THE ARTICLE COULD BE THE BASIS FOR NEGOTIATIONS AND HOPEFULLY OTHER COUNTRIES WOULD VIEW IT SYMPATHICALLY. THE USSR SAID THAT THE RESULT OF THE PLAN IN TERMS OF COMPOSITION AND OPERATION OF THE COUNCIL WAS "NOT BAD" BUT INDICATED SOME RESERVATIONS OF AN UNCLEAR NATURE WITH PARA 2(A) OF THE ANNEX WHICH REQUIRES THAT CONSUMPTION AND PRODUCTION FIGURES BE MADE AVAILABLE BY STATES TO THE AUTHORITY. CONFIDENTIAL

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THE USSR ALSO SAID IT WOULD PREFER NOT TO HAVE THE ASSIGNMENT PROVISION IN PARA 7 OF THE ARTICLE.

3. RATINER SAID THAT THE US WOULD NOT AT THIS TIME CIRCULATE THE ARTICLE BEYOND THE GROUP OF 5 AND THE FRG. WE WANT, HOWEVER, G-5 REACTIONS AND SUPPORT, OR AT LEAST SILENCE IF SUPPORT COULD NOT BE GIVEN. AFTER RECEIVING FORMAL GROUP OF 5 REACTIONS, WASHINGTON WOULD DECIDE WHETHER TO PROCEED WITH THE ARTICLE. IF WE DID MOVE FORWARD, WE WOULD CIRCULATE IT TO THE 18 COUNTRIES WHICH WILL LIKELY COMPOSE THE FIRST 3 CHAMBERS OF THE COUNCIL AND TO OTHER SYMPATHIC DELEGATIONS. WE WOULD THEN INTRODUCE IT FORMALLY IN THE FIRST COMMITTEE. RATINER EMPHASIZED, HOWEVER, THAT NO DECISION HAD BEEN MADE TO

GO FORWARD WITH THE ARTICLE. MEMBERS OF THE
GROUP INDICATED THAT THEY WOULD HAVE TO SEND THE
ARTICLE TO THEIR CAPITALS AND HOPEFULLY COULD HAVE
A FORMAL REACTION BY EARLY NEXT WEEK.
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